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The Honorable Tana Lin

MAR 28 2025

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

NO. CR24-162 TL

PLEA AGREEMENT

KYLE CHRISTOPHER BENTON,

Defendant.

The United States, through United States Attorney Tessa M. Gorman and Assistant United States Attorney Brian J. Wynne of the Western District of Washington and Kyle Christopher Benton and Kyle Christopher Benton's attorney Dawn Farina enter into the following Plea Agreement, pursuant to Federal Rule of Criminal Procedure 11.

1. **The Charges.** Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enters a plea of guilty to each of the following charges contained in the Indictment.

a. Unlawful Possession of a Machinegun, as charged in Count 1, in violation of Title 18, United States Code, Section 922(o)(1).

b. Possession of an Unregistered Firearm, as charged in Count 2, in violation of Title 26, United States Code, Sections 5861(d) and 5845(a)(3).

By entering these pleas of guilty, Defendant hereby waives all objections to the form of the charging document. Defendant further understands that before entering any guilty plea, Defendant will be placed under oath. Any statement given by Defendant under oath may be used by the United States in a prosecution for perjury or false statement.

2. **Elements of the Offenses.** The elements of the offenses to which Defendant is pleading guilty are as follows:

a. The elements of Unlawful Possession of a Machinegun, as charged in Count 1, are as follows:

- i. First, the defendant knowingly possessed a machinegun; and
- ii. Second, the defendant knew the characteristics of the firearm.

b. The elements of Possession of an Unregistered Firearm, as charged in Count 2, are as follows:

- i. First, the defendant knowingly possessed a firearm;
- ii. Second, the defendant knew the characteristics of the firearm required it to be registered to him on the National Firearm Registration and Transfer Record; and
- iii. Third, the firearm possessed by the defendant was not registered to him on the National Firearm Registration and Transfer Record.

3. **The Penalties.** Defendant understands that the statutory penalties applicable to the offenses to which Defendant is pleading guilty are as follows:

a. For the offense of Unlawful Possession of a Machinegun, as charged in Count 1: A maximum term of imprisonment of up to 15 years, a fine of up to \$250,000.00, a period of supervision following release from prison of up to three

1 years, and a mandatory special assessment of \$100.00. If a probationary sentence
2 is imposed, the probation period can be for up to five years.

3 b. For the offense of Possession of an Unregistered Firearm, as charged
4 in Count 2: A maximum term of imprisonment of up to ten years, a fine of up to
5 \$10,000.00, a period of supervision following release from prison of up to three
6 years, and a mandatory special assessment of \$100.00. If a probationary sentence
7 is imposed, the probation period can be for up to five years.

8 Defendant understands that supervised release is a period of time following
9 imprisonment during which Defendant will be subject to certain restrictive conditions and
10 requirements. Defendant further understands that, if supervised release is imposed and
11 Defendant violates one or more of the conditions or requirements, Defendant could be
12 returned to prison for all or part of the term of supervised release that was originally
13 imposed. This could result in Defendant serving a total term of imprisonment greater than
14 the statutory maximum stated above.

15 Defendant understands that as a part of any sentence, in addition to any term of
16 imprisonment and/or fine that is imposed, the Court may order Defendant to pay
17 restitution to any victim of the offense, as required by law.

18 Defendant further understands that the consequences of pleading guilty may
19 include the forfeiture of certain property, either as a part of the sentence imposed by the
20 Court, or as a result of civil judicial or administrative process.

21 Defendant agrees that any monetary penalty the Court imposes, including the
22 special assessment, fine, costs, or restitution, is due and payable immediately and further
23 agrees to submit a completed Financial Disclosure Statement as requested by the United
24 States Attorney's Office.

25 Defendant understands that, if pleading guilty to a felony drug offense, Defendant
26 will become ineligible for certain food stamp and Social Security benefits as directed by
27 Title 21, United States Code, Section 862a.

1 **4. Immigration Consequences.** Defendant recognizes that pleading guilty
 2 may have consequences with respect to Defendant's immigration status if Defendant is
 3 not a citizen of the United States. Under federal law, a broad range of crimes are grounds
 4 for removal, and some offenses make removal from the United States presumptively
 5 mandatory. Removal and other immigration consequences are the subject of a separate
 6 proceeding, and Defendant understands that no one, including Defendant's attorney and
 7 the Court, can predict with certainty the effect of a guilty plea on immigration status.
 8 Defendant nevertheless affirms that Defendant wants to plead guilty regardless of any
 9 immigration consequences that Defendant's guilty plea(s) may entail, even if the
 10 consequence is Defendant's mandatory removal from the United States.

11 **5. Rights Waived by Pleading Guilty.** Defendant understands that by
 12 pleading guilty, Defendant knowingly and voluntarily waives the following rights:

- 13 a. The right to plead not guilty and to persist in a plea of not guilty;
- 14 b. The right to a speedy and public trial before a jury of Defendant's
 15 peers;
- 16 c. The right to the effective assistance of counsel at trial, including, if
 17 Defendant could not afford an attorney, the right to have the Court appoint one for
 18 Defendant;
- 19 d. The right to be presumed innocent until guilt has been established
 20 beyond a reasonable doubt at trial;
- 21 e. The right to confront and cross-examine witnesses against Defendant
 22 at trial;
- 23 f. The right to compel or subpoena witnesses to appear on Defendant's
 24 behalf at trial;
- 25 g. The right to testify or to remain silent at trial, at which trial such
 26 silence could not be used against Defendant; and
- 27 h. The right to appeal a finding of guilt or any pretrial rulings.

1 **6. United States Sentencing Guidelines.** Defendant understands and
2 acknowledges that the Court must consider the sentencing range calculated under the
3 United States Sentencing Guidelines and possible departures under the Sentencing
4 Guidelines together with the other factors set forth in Title 18, United States Code,
5 Section 3553(a), including: (1) the nature and circumstances of the offense(s); (2) the
6 history and characteristics of Defendant; (3) the need for the sentence to reflect the
7 seriousness of the offense(s), to promote respect for the law, and to provide just
8 punishment for the offense(s); (4) the need for the sentence to afford adequate deterrence
9 to criminal conduct; (5) the need for the sentence to protect the public from further
10 crimes of Defendant; (6) the need to provide Defendant with educational and vocational
11 training, medical care, or other correctional treatment in the most effective manner; (7)
12 the kinds of sentences available; (8) the need to provide restitution to victims; and (9) the
13 need to avoid unwarranted sentence disparity among defendants involved in similar
14 conduct who have similar records. Accordingly, Defendant understands and
15 acknowledges that:

16 a. The Court will determine Defendant's Sentencing Guidelines range
17 at the time of sentencing;

18 b. After consideration of the Sentencing Guidelines and the factors in
19 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to the
20 maximum term authorized by law;

21 c. The Court is not bound by any recommendation regarding the
22 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
23 range offered by the parties or the United States Probation Department, or by any
24 stipulations or agreements between the parties in this Plea Agreement; and

25 d. Defendant may not withdraw a guilty plea solely because of the
26 sentence imposed by the Court.
27

1 7. **Ultimate Sentence.** Defendant acknowledges that no one has promised or
2 guaranteed what sentence the Court will impose.

3 8. **Statement of Facts.** Defendant admits Defendant is guilty of the charged
4 offenses. The parties agree on the following facts:

5 a. The Federal Bureau of Investigation (“FBI”) began investigating
6 BENTON after an Army Criminal Investigative Division investigation revealed
7 BENTON operated several social media accounts where he posted anti-Semitic
8 and neo-Nazi propaganda and related violent extremist content.

9 b. During the investigation, BENTON posted images and videos of
10 various firearms he possessed, including firearms required to be registered under
11 the National Firearms Act, to include short-barrel rifles and machineguns. He also
12 posted messages on various platforms and communicated with others via various
13 online means about firearms to include posting about selling a short-barrel rifle to
14 another person.

15 c. In August of 2024, BENTON posted about his intent to go to a
16 shooting range with others. In doing so, BENTON posted, “I hope they like NFA
17 violations.” After making this posting, BENTON posted a video of himself firing
18 in a fully automatic capacity.

19 d. On September 4, 2024, United States Magistrate Judge S. Kate
20 Vaughan authorized a search warrant for BENTON’s residence in Snohomish,
21 Washington, within the Western District of Washington.

22 e. On September 6, 2024, investigators served the search warrant at
23 BENTON’s residence. In BENTON’s residence investigators located a black M16
24 type 5.56x45 caliber rifle with no apparent markings. Agents with the Bureau of
25 Alcohol, Tobacco, Firearms and Explosives conducted a function test on the
26 firearm and determined it functioned as a machinegun under Title 26, United
27 States Code, Section 5845(b).

1 f. In BENTON's residence, investigators also found a Palmetto State
2 Armory PA-15 5.56 x45 caliber rifle. The overall barrel length for the
3 Palmetto State Armory rifle was 12-5/8 inches.

4 g. Additionally, investigators found an uninstalled drop-in
5 autosear, which is used to convert a semi-automatic rifle to fire as a
6 machinegun, and which constitutes a machinegun under Title 26, United
7 States Code, Section 5845(b) even while uninstalled, and a second rifle with
8 a barrel length of less than 16 inches.

9 h. BENTON admits to knowing before the execution of the search
10 warrant at his residence on September 6, 2024, that his black M16 type
11 5.56x45 caliber rifle, Palmetto State Armory PA-15 5.56 x45 caliber rifle,
12 uninstalled drop-in autosear, and other rifle with a barrel length of less than
13 16 inches were all required to be registered with the National Firearms
14 Registration and Transfer Record. BENTON further admits he never
15 registered any item with the National Firearms Registration and Transfer
16 Record.

17 The parties agree that the Court may consider additional facts contained in the
18 Presentence Report (subject to standard objections by the parties) and/or that may be
19 presented by the United States or Defendant at the time of sentencing, and that the factual
20 statement contained herein is not intended to limit the facts that the parties may present to
21 the Court at the time of sentencing.

22 9. **Sentencing Factors.** The parties agree that the following Sentencing
23 Guidelines provisions apply to this case:

- 24 a. A base offense level of 18 pursuant to USSG § 2K2.1(a)(5); and
25 b. A two-level increase pursuant to USSG § 2K2.1(b)(1)(A) because
26 more than three, but less than seven firearms were involved.
27

1 The parties agree they are free to present arguments regarding the applicability of
2 all other provisions of the United States Sentencing Guidelines. Defendant understands,
3 however, that at the time of sentencing, the Court is free to reject these stipulated
4 adjustments, and is further free to apply additional downward or upward adjustments in
5 determining Defendant's Sentencing Guidelines range.

6 10. **Acceptance of Responsibility.** At sentencing, if the Court concludes
7 Defendant qualifies for a downward adjustment for acceptance of responsibility pursuant
8 to USSG § 3E1.1(a) and Defendant's offense level is 16 or greater, the United States will
9 make the motion necessary to permit the Court to decrease the total offense level by three
10 levels pursuant to USSG §§ 3E1.1(a) and (b), because Defendant has assisted the United
11 States by timely notifying the United States of Defendant's intention to plead guilty,
12 thereby permitting the United States to avoid preparing for trial and permitting the Court
13 to allocate its resources efficiently.

14 11. **Recommendation Regarding Imprisonment.** Pursuant to Federal Rule of
15 Criminal Procedure 11(c)(1)(B), the United States agrees to recommend that the
16 appropriate term of imprisonment to be imposed by the Court at the time of sentencing is
17 a term not greater than the high end of the Guidelines range, as calculated by the Court.
18 Defendant is free to make any recommendation permitted by law. Defendant understands
19 that these recommendations are not binding on the Court and the Court may reject the
20 recommendation of the parties and may impose any term of imprisonment up to the
21 statutory maximum penalty authorized by law. Defendant further understands that
22 Defendant cannot withdraw a guilty plea simply because of the sentence imposed by the
23 Court. Except as otherwise provided in this Plea Agreement, the parties are free to
24 present arguments regarding any other aspect of sentencing.

25 12. **Forfeiture of Assets.** Defendant understands that the forfeiture of property
26 is part of the sentence that must be imposed in this case. Defendant agrees to forfeit to the
27 United States immediately Defendant's right, title, and interest in any firearms and

1 ammunition involved in his commission of Unlawful Possession of a Machinegun, in
2 violation of 18 U.S.C. § 922(o), as charged in Count 1 of the Indictment. All such
3 property is subject to forfeiture pursuant to 18 U.S.C. § 924(d)(1), by way of 28 U.S.C.
4 § 2461(c), and includes, but is not limited to, one machinegun, further described as a
5 black M16 type 5.56 x45 caliber rifle with no apparent markings, and any associated
6 ammunition, seized on or about September 6, 2024, from Defendant's residence in
7 Snohomish, Washington.

8 Defendant further agrees to forfeit to the United States immediately Defendant's
9 right, title, and interest in any firearms involved in his commission of Possession of an
10 Unregistered Firearm, in violation of 26 U.S.C. §§ 5861(d) and 5845(a)(3), as charged in
11 Count 2 of the Indictment. All such property is subject to forfeiture pursuant to 26 U.S.C.
12 § 5872, by way of 28 U.S.C. § 2461(c), and includes, but is not limited to, one Palmetto
13 State Armory PA-15 5.56 x45 caliber rifle with serial number LW228960, with an
14 approximately 12-5/8 inch barrel, a rifle having a barrel of less than 16 inches in length,
15 sone machinegun, further described as a black M16 type 5.56x45 caliber rifle with no
16 apparent markings, and any associated ammunition, seized on or about September 6,
17 2024, from Defendant's residence in Snohomish, Washington.

18 Defendant agrees to fully assist the United States in the forfeiture of any
19 forfeitable property and to take whatever steps are necessary to pass clear title to the
20 United States, including but not limited to: surrendering title and executing any
21 documents necessary to effect forfeiture; assisting in bringing any property located
22 outside the United States within the jurisdiction of the United States; and taking whatever
23 steps are necessary to ensure that property subject to forfeiture is not sold, disbursed,
24 wasted, hidden, or otherwise made unavailable for forfeiture.

25 Defendant agrees not to file any further claims to any of this property in any
26 federal forfeiture proceeding, administrative or judicial, that may be or has been initiated,
27 or to otherwise contest any federal forfeiture proceeding that may be or has been

1 initiated. Defendant also agrees he will not assist any party who may file a claim to this
2 property in any federal forfeiture proceeding.

3 The United States reserves its right to proceed against any remaining assets not
4 identified in this Plea Agreement, in which the Defendant has any interest or control, if
5 said assets were firearms and ammunition involved in his commission of Unlawful
6 Possession of a Machinegun (Count 1) or were firearms involved in his Possession of a
7 Unregistered Firearm (Count 2).

8 13. **Abandonment of Contraband.** Defendant also agrees that, if any federal
9 law enforcement agency seized any illegal contraband, firearms, ammunition, magazines,
10 flash suppressors, firearms accessories, or autosears, that were in Defendant's direct or
11 indirect control, Defendant consents to the federal administrative disposition, official use,
12 and/or destruction of same.

13 14. **Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,
14 the United States Attorney's Office for the Western District of Washington agrees not to
15 prosecute Defendant for any additional offenses known to it as of the time of this Plea
16 Agreement based upon evidence in its possession at this time, and that arise out of the
17 conduct giving rise to this investigation. In this regard, Defendant recognizes the United
18 States Attorney's Office for the Western District of Washington has agreed not to
19 prosecute all of the criminal charges the evidence establishes were committed by
20 Defendant solely because of the promises made by Defendant in this Plea Agreement.
21 Defendant agrees, however, that for purposes of preparing the Presentence Report, the
22 United States Attorney's Office will provide the United States Probation Office with
23 evidence of all conduct committed by Defendant.

24 Defendant agrees that any charges to be dismissed before or at the time of
25 sentencing were substantially justified in light of the evidence available to the United
26 States, were not vexatious, frivolous or taken in bad faith, and do not provide Defendant
27

1 with a basis for any future claims under the “Hyde Amendment,” Pub. L. No. 105-119
2 (1997).

3 **15. Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that, if
4 Defendant breaches this Plea Agreement: (a) the United States may withdraw from this
5 Plea Agreement and Defendant may be prosecuted for all offenses for which the United
6 States has evidence; (b) Defendant will not oppose any steps taken by the United States
7 to nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea
8 Agreement; and/or (c) Defendant waives any objection to the re-institution of any charges
9 that previously were dismissed or any additional charges that had not been prosecuted.

10 Defendant further understands that if, after the date of this Plea Agreement,
11 Defendant should engage in illegal conduct, or conduct that violates any conditions of
12 release or the conditions of confinement (examples of which include, but are not limited
13 to, obstruction of justice, failure to appear for a court proceeding, criminal conduct while
14 pending sentencing, and false statements to law enforcement agents, the Pretrial Services
15 Officer, Probation Officer, or Court), the United States is free under this Plea Agreement
16 to file additional charges against Defendant and/or to seek a sentence that takes such
17 conduct into consideration by requesting the Court to apply additional adjustments or
18 enhancements in its Sentencing Guidelines calculations in order to increase the applicable
19 advisory Guidelines range, and/or by seeking an upward departure or variance from the
20 calculated advisory Guidelines range. Under these circumstances, the United States is
21 free to seek such adjustments, enhancements, departures, and/or variances even if
22 otherwise precluded by the terms of the Plea Agreement.

23 **16. Waiver of Appellate Rights and Rights to Collateral Attacks.** Defendant
24 acknowledges that, by entering the guilty plea(s) required by this Plea Agreement,
25 Defendant waives all rights to appeal from Defendant’s conviction, and any pretrial
26 rulings of the Court, and any rulings of the Court made prior to entry of the judgment of
27 conviction. Defendant further agrees that, provided the Court imposes a custodial

1 sentence that is within or below the Sentencing Guidelines range (or the statutory
2 mandatory minimum, if greater than the Guidelines range) as determined by the Court at
3 the time of sentencing, Defendant waives to the full extent of the law any right conferred
4 by Title 18, United States Code, Section 3742, to challenge, on direct appeal, the
5 sentence imposed by the Court, including any fine, restitution order, probation or
6 supervised release conditions, or forfeiture order (if applicable). This includes any
7 procedural challenges to the sentence, including any claim that the procedure employed
8 at sentencing violated Defendant's constitutional rights.

9 Defendant also agrees that, by entering the guilty plea(s) required by this Plea
10 Agreement, Defendant waives any right to bring a collateral attack against the conviction
11 and sentence, including any restitution order imposed, except as it may relate to the
12 effectiveness of legal representation or a claim of prosecutorial misconduct based on facts
13 unknown or not reasonably discoverable prior to entry of the judgment of conviction.

14 Defendant acknowledges that certain claims, including certain claims for
15 prosecutorial misconduct, will be barred by operation of law by virtue of their guilty plea,
16 independently from this Plea Agreement. This waiver does not preclude Defendant from
17 bringing an appropriate motion to address the conditions of Defendant's confinement or
18 the decisions of the Bureau of Prisons regarding the execution of Defendant's sentence.

19 If Defendant breaches this Plea Agreement at any time by appealing or collaterally
20 attacking (except as to claims not subject to the waiver, above) the conviction or sentence
21 in any way, the United States may prosecute Defendant for any counts, including those
22 with mandatory minimum sentences, that were dismissed or not charged pursuant to this
23 Plea Agreement.

24 **17. Voluntariness of Plea.** Defendant agrees that Defendant has entered into
25 this Plea Agreement freely and voluntarily, and that no threats or promises were made to
26 induce Defendant to enter a plea of guilty other than the promises contained in this Plea
27 Agreement or set forth on the record at the change of plea hearing in this matter.

1 18. **Statute of Limitations.** In the event this Plea Agreement is not accepted by
2 the Court for any reason, or Defendant breaches any of the terms of this Plea Agreement,
3 or Defendant withdraws from this Plea Agreement after it has been accepted by the
4 Court, the statute of limitations shall be deemed to have been tolled from the date of the
5 Plea Agreement to: (1) thirty days following the date of non-acceptance of the Plea
6 Agreement by the Court; or (2) thirty days following the date on which a breach of the
7 Plea Agreement by Defendant is discovered by the United States Attorney's Office; or
8 (3) thirty days following the grant of a motion to withdraw from the Plea Agreement.

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1 19. **Completeness of Plea Agreement.** The United States and Defendant
2 acknowledge that these terms constitute the entire Plea Agreement between the parties,
3 except as may be set forth on the record at the change of plea hearing in this matter. This
4 Plea Agreement binds only the United States Attorney's Office for the Western District
5 of Washington. It does not bind any other United States Attorney's Office or any other
6 office or agency of the United States, or any state or local prosecutor.

7 Dated this 28th day of March, 2025.

8
9 

10 KYLE CHRISTOPHER BENTON
11 Defendant

12 

13 DAWN FARINA
14 Attorney for Defendant

15  For

16 TODD GREENBERG
17 Assistant United States Attorney

18 

19 BRIAN J. WYNNE
20 Assistant United States Attorney